IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3565 of 2005
To
FIRST APPEAL No. 3582 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.L.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPECIAL LAND ACQUISITION OFFICER & 1 - Appellant(s)

Versus

MOHANSINH GULABSINH & 2 - Defendant(s)

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Appearance :

MR.R.M.CHAUHAN, ASST. GOVERNMENT PLEADER for Appellant(s) : 1 - 2.
MR VIJAY N RAVAL for Defendant(s) : 1,
None for Defendant(s) : 2, 2.2.1, 2.2.2,2.2.3 - 3.

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CORAM : HONOURABLE MR.JUSTICE A.L.DAVE

Date : 13/12/2005

ORAL JUDGMENT

Appeals are admitted. Learned Advocate, Mr.Vijay N. Raval, waives service of process of admission on behalf of the respondents.

2.Since the issues arising for determination by this Court are covered by earlier judgments, the matters are taken up for final hearing with the consent of parties.

3.By this set of appeals, the appellant challenges the judgment and award passed by the 4th Joint Civil Judge, (SD) (now Senior Judge), Panchmahals at Godhra passed in Land Acquisition Reference Case No.770 of 1990 and other allied matters on April 20, 1999; tabulated as under.

FIRST APPEAL NO.	LAR NO.	SURVEY NO.	AMOUNT IN RUPEES
3566 OF 2005	768	90/2	37701.09 Paise
3567 OF 2005	769	90/1	27504.54 Paise
3565 OF 2005	770	88/1	14139.21 Paise
3568 OF 2005	771	93/2	19014.00 Paise
3569 OF 2005	772	97	11200.51 Paise
3570 OF 2005	773	88/2 & 92/7	23269.00 Paise
3571 OF 2005	774	89 & 90/4	91329.71 Paise
3572 OF 2005	775	92/1	19044.00 Paise
3573 OF 2005	776	92/3 & 92/6	55019.53 Paise
3574 OF 2005	777	92/4	34919.26 Paise
3575 OF 2005	778	92/5	32796.28 Paise
3576 OF 2005	779	88/3 & 90/3	41256.80 Paise
3577 OF 2005	780	91/1	35975.52 Paise
3578 OF 2005	781	91/2	35975.52 Paise
3579 OF 2005	782	92/2	20110.73 Paise
3580 OF 2005	783	94/1	30328.20 Paise
3581 OF 2005	784	94/2	8460.52 Paise
3582 OF 2005	785	94/2	10583.50 Paise

4.The reference cases arose out of acquisition of lands of village Ambala of Tal. Kalol, Dist: Panchmahals for the purpose of 'Narmada Project Unit – 1'.

5.The lands were acquired for the said project and the Special Land Acquisition Officer, awarded compensation at Rs.0.70 Paise per square meter, as against the claim of Rs.10/- per square meter of land made by the land owners. The reference Court after considering the evidence led by the parties and precedents came to a conclusion that land owners were entitled to an additional compensation of Rs.6.30 Paise, over and above, the compensation already awarded by the Land Acquisition Officer i.e. Rs.7/- per square meter. The reference Court also awarded solatium at Rs.30/- and additional amount @ 12 % per annum from 15/9/1986 to 30/9/1989 on the market value and interest @ 9% per annum for the first year and @ 15% for subsequent years from the date of taking over possession till payment of the compensation.

6.Heard, learned Asst. Government Pleader, Mr.Chauhan, for the appellant and learned Advocate, Mr.Raval for the respondents.

6.1It transpires that the reference Court took into consideration the decision in case of State of Gujarat Vs. Gobar Rupa reported in 1995 (1) G.L.R. Page 1 where, inspite of acquisition of lands of same village, compensation of Rs.7/- per square meter was awarded. The case is, therefore, squarely covered by the said judgment and, there is no dispute on this aspect. The appeals therefore, cannot be entertained on ground of quantum of compensation.

7.However, it appears that the reference Court while awarding solatium has ordered that the land owners are entitled to receive the solatium at Rs.30/- per square meter of land acquired, which would four times more than the amount of compensation. This is not contemplated by the Land Acquisition Act. What is contemplated is award of solatium @ 30% of the compensation and, therefore, to that extent, the reference Court can be said to have committed an error. The appeals, therefore, will have to be allowed to that extent.

8.It transpires, and there is unanimity between the learned Counsel representing parties, that the award is satisfied and amount of compensation is already

disbursed. Learned Advocate, Mr.Raval, places on record a xerox copy of statement prepared by Executive Engineer of the Narmada Project, Thasara and countersigned by the Special Land Acquisition Officer, Narmada Project Unit -1, Vadodara which is placed on record of the reference Court to show that while satisfying the award, solatium is paid @ 30% of the compensation not at Rs.30/- per square meter, as per award. Learned Advocate, Mr.Raval, states that the respondents do not expect solatium @ Rs.30/- per square meter either.

9. Learned Advocate, Mr.Raval, states that while satisfying the award, the appellants have not paid interest on amount of solatium. If that be so, it would be reasonable to expect from the appellants to pay interest on the solatium amount also as per the award of the reference Court, in light of decision rendered by the Apex Court in the case of **Sundar Vs. Union of India 2001 (3) G.L.H. 446.**

10. The appeals, therefore, stand partly allowed. The awards so far as they relate to solatium, are modified. The solatium receivable by the respondents would be @ 30% of the amount of compensation, instead of Rs.30/-

per square meter, as awarded by the reference Court. The award of the reference Court are confirmed so far as quantum of compensation is concerned. There shall be no order as to costs.

(A.L.DAVE, J.)

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